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December 29, 2015

The Honorable Charles R. Breyer
United States District Judge
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *In re: Volkswagen "Clean Diesel" Marketing, Sales
Practices, and Products Liability Litigation*
MDL No. 2672 CRB (JSC)

Dear Judge Breyer:

In accordance with Your Honor's Pretrial Orders, Nos. 1 and 2 (Dkts. 2 and 336) requesting that all applications for a Lead Counsel and/or for a seat on Plaintiffs' Steering Committee be filed on or before January 8, 2016, I hereby apply to be appointed to one of the Lead Counsel positions, as well as a member of the Plaintiffs' Steering Committee.

I filed claims for both purchasers and lessees of Volkswagen, Audi and Porsche diesel vehicles with emissions issues.

I have been prosecuting complex litigation cases for 48 years, during which time I have participated in over 175 complex cases – virtually all of them class actions. In most of them, I was in a leadership position – sole lead, co-lead, liaison counsel, or a member of the Plaintiffs' Executive or Steering Committee. I personally have tried several complex cases to juries, including three antitrust actions.

Recently, I have been sole lead, co-lead or liaison counsel for consumers in several of the large electronics cases pending in the Northern District of California: *TFT/LCD Antitrust Litigation* (Co-Lead Counsel for Indirect-Purchaser Plaintiffs, settlement for \$1.1 Billion),

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DRAM Antitrust Litigation (Liaison Counsel for Indirect-Purchaser Plaintiffs, settlement for \$310 Million); *SRAM Antitrust Litigation* (Lead Counsel for Indirect-Purchaser Plaintiffs, settlement for \$41 Million). I was appointed recently as Co-Lead Counsel for the consumer class in *Parking Heaters Antitrust Litigation* pending in the Eastern District of New York.

My skills in prosecuting complex class actions have been recognized recently by Special Master Martin Quinn in the *TFT/LCD Antitrust Litigation* and by Special Master Judge Vaughn Walker (Ret.) in the *CRT Antitrust Litigation*.

Special Master Quinn recognized my singular expertise in prosecuting and resolving large complex cases. In his final Report and Recommendation to the Court in *TFT/LCD Antitrust Litigation* (No. 07-cv-01827-SI, Dkt. 7375), Special Master Quinn stated: “Mr. Scarpulla set the tone and led the strategy to obtain the excellent settlements. ... As co-lead counsel, Mr. Scarpulla played precisely the role expected of him, and according to every lawyer and mediator I spoke to, did so superbly.”

Recognizing my ability to resolve complex cases, Judge Walker issued a Report and Recommendation in *CRT Antitrust Litigation* that I be appointed settlement counsel (along with Josef D. Cooper) to focus solely on resolution of that complex case. (No. 3:07-cv-05944-JST, Dkt. 3200). Judge Walker recommended that the sole-lead-counsel structure be augmented “... so that adequate attention and effort can be devoted to settlement” and recommended that I, whom Judge Walker characterized as an “... experienced and able counsel ...” be added to the *CRT* leadership structure. Judge Walker noted my effectiveness in negotiating the \$1.1 Billion *TFT/LCD* settlement and the \$310 Million *DRAM* settlement, and, on that basis, recommended that the leadership team be augmented to include me. *Ibid*.

I am ready, willing and able to commit to this time-consuming litigation and have adequate financial resources to prosecute this class action in a timely manner.

Over my years of practice, I have gained a reputation for working cooperatively with both my co-counsel on the plaintiffs’ side, as well as with opposing defense counsel. In fact, as Special Master Quinn found: “... co-lead counsel Francis Scarpulla ... [and his firm] ... were the engines that primarily drove the IPP effort to a successful conclusion The case was won in a series of mediated settlements During mediation, Mr. Scarpulla set the tone and led the strategy to obtain the excellent settlements.” (No. 07-cv-01827-SI. Dkt 7375.)

Because I believe that the only real issue for consideration here is constructing a fair and reasonable remedy for those consumers who brought or leased VW’s affected vehicles, and as I possess the expertise – especially in settlement negotiations – to resolve this case promptly, I respectfully request that this Court appoint me to a Lead Counsel position and/or to a Plaintiffs’ Steering Committee charged with the responsibility of settling this class action promptly.

A copy of my *Curriculum Vitae*, which describes the various courts to which I am admitted as well as the several awards and accolades I have received over the years, is attached hereto as Exhibit 1.

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I have appeared before the following judges recently, who have knowledge of my expertise:

The Hon. Charles B. Renfrew (Ret.) (*DRAM*), 710 Sansome Street, San Francisco, CA 94111; (415) 397-3393;
The Hon. Susan Illston (*LCD*), United States District Court Judge, United States District Court, Northern District of California, 450 Golden Gate Avenue, Courtroom 10, 19th Floor, San Francisco, CA 94102;
The Hon. Claudia Ann Wilken (*SRAM*), United States District Court Judge, United States District Court, Northern District of California, 1301 Clay Street, Courtroom 2, 4th Floor, Oakland, CA 94612;
The Hon. Phyllis J. Hamilton (*DRAM*), United States District Court Judge, United States District Court, Northern District of California, 1301 Clay Street, Courtroom 3, 3rd Floor, Oakland, CA 94612.

Should Your Honor wish additional references, the following mediators know me as one who has the ability to settle cases fairly and promptly:

The Hon. Daniel Weinstein, Judicial Arbitration & Mediation Services, Two Embarcadero Center, Suite 1500, San Francisco, CA 94111; (415) 982-5267;
The Hon. Alfred G. Chiantelli, Alternative Dispute Resolution Services, 100 First Street, 27th Floor, San Francisco, CA 94105; (415) 772-0900;
The Hon. Laurence Kay, Alternative Dispute Resolution Services, 100 First Street, 27th Floor, San Francisco, CA 94105; (415) 772-0900;
Professor Eric Green, Resolutions, LLC, 125 High Street, Boston, MA 02110; 617-556-0800;
Special Master Martin Quinn, Judicial Arbitration & Mediation Services, Two Embarcadero Center, Suite 1500, San Francisco, CA 94111; (415) 982-5267.

In the event that Your Honor would like any references from opposing counsel regarding my cooperative efforts in settling complex cases, I will be happy to provide such a list.

If Your Honor has any questions about my qualifications, or any other matter pertaining to this application, I will be pleased to answer them at the case management conference set for January 21, 2016.

Respectfully yours,


Francis O. Scarpulla

FOS/cpc

Enclosure

cc: All Counsel on ECF